IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR. JUSTICE A. GOPAL REDDY

WRIT PETITION No. 23 OF 2006

DATED: 31-03-2006

BETWEEN:

Maddala Yanadamma

.....Petitioner

AND

The Deputy Executive Engineer,
Somasila Project Sub-Division No.1,
Irrigation Department, Kaluvoya,
Nellore District, A.P., and another

.....Respondents

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THE HON'BLE MR. JUSTICE A. GOPAL REDDY

WRIT PTITION No. 23 OF 2006

ORDER:

Questioning the notice dated 19-12-2005 issued by the Deputy Executive Engineer – the 1st respondent herein, the present writ petition is filed by the petitioner stating that the Mandal Revenue Officer – the 2nd respondent granted patta to her over an extent of 0-04 cents of land of Kaluvoya village on
22-07-1990 and since then, she is in possession of the same by constructing thatched house which is subjected to property tax. According to the petitioner, without conducting any enquiry by issuing prior notice, the impugned notice has been issued which is arbitrary and illegal.

The respondents filed counter along with a vacate stay petition stating that notice was served on the petitioner due to her encroachment in Sy.No.776-4 but not in connection with Sy.No.776-II in which the petitioner was granted patta by the Revenue Department. The fact that no survey was conducted by the Mandal Surveyor and the village secretary at any time is not correct and the survey was conducted on
30-04-2003 by the Mandal Surveyor along with Panchayat Secretary in the presence of Assistant Engineer and it was found that the petitioner has encroached into the portion of the property in Sy.No.776-4. Therefore, notice was issued to her.

The survey report which is enclosed along with the counter also discloses the portion of the property which was encroached by the petitioner but it is conspicuously silent about the survey conducted after due notice to the petitioner. In view of the same, the respondents are at liberty to conduct survey after due notice to the petitioner and demarcate the land covered by patta granted to her and if any excess land is found to be in her occupation, the same

should be notified for removal of the encroachment. Till the encroached portion is demarcated, the petitioner shall not be evicted pursuant to the impugned notice.

The writ petition is accordingly disposed of.

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A. GOPAL REDDY,
J

31-03-2006
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